

The claimant originally injured his back, shoulder and neck while employed by the respondent on August 28, 1994. He was treated by his family physician, Dr. Todd Miller, who eventually referred him to Dr. Michael Munhall who treated the claimant. Dr. Munhall eventually rated and released claimant to return to work for the respondent. Thereafter, claimant settled his claim pursuant to a running award in a settlement hearing held November 16, 1995. However, claimant remained symptomatic and obtained pain medication through his family physician, Dr. Miller. Respondent refused to pay for the pain

medication, contending that Dr. Munhall was the authorized treating physician and not Dr. Miller.

This matter first came before the Administrative Law Judge on a Form E-3, Application for Preliminary Hearing, filed by the claimant that requested an appointment of an authorized physician for the purpose of prescribing pain medication. This was a post-award request from the running award entered on November 16, 1995. Contained in the award was the finding that future medical was to be provided upon proper application and approval of the Director. The first preliminary hearing on claimant's request was held on March 12, 1996. As a result of that hearing, the Administrative Law Judge authorized Michael Munhall, M.D., an orthopedic surgeon, to continue as claimant's authorized physician. No appeal was taken from the Order.

After the Administrative Law Judge's March 12, 1996 Order, the claimant attempted to return to Dr. Munhall for treatment. Dr. Munhall, however, in a letter to claimant's attorney dated April 1, 1996 and admitted into evidence at the April 16, 1996 preliminary hearing, elected not to resume any direct or indirect rehabilitative management of the claimant. Subsequently, claimant filed another request for a preliminary hearing which is the subject of this appeal.

Respondent argues that the Appeals Board does not have jurisdiction to review this preliminary hearing Order. The Appeals Board has jurisdiction to review a preliminary hearing order if one of the specific issues listed in K.S.A. 44-534a, as amended by S.B. 649 (1996), are disputed. Jurisdiction is also granted if the appellant alleges that the Administrative Law Judge exceeded his or her jurisdiction in granting or denying the relief requested. See K.S.A. 44-551, as amended by S.B. 649 (1996). Neither of the issues raised by the claimant are contained in K.S.A. 44-534a, as amended by S.B. 649 (1996). Furthermore, the Administrative Law Judge has authority pursuant to the preliminary hearing statute, K.S.A. 44-534a, as amended by S.B. 649 (1996), to grant or deny medical treatment. Accordingly, the Appeals Board concludes, at this juncture of the proceeding, that it does not have jurisdiction to review this preliminary hearing Order.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this appeal should be, and is hereby, dismissed and the Order of Administrative Law Judge John D. Clark dated April 16, 1996 remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of June 1996.

BOARD MEMBER

c: John C. Nodgaard, Wichita, KS
Kurt Ratzlaff, Wichita, KS

John D. Clark, Administrative Law Judge
Philip S. Harness, Director